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SUPREME COURT, U.S.

Supreme Court of the United States

OCTOBER TERM, 1956

No. 302

WILLIAM C. MARSHALL, SHERIFF, SAGINAW COUNTY, ROBERT SCHULTZ, ALEXANDER D. PEZZINI and CHARLES A. ROGERS,
Appellants,
vs.
JOHN B. MARK, Secretary of State of Michigan, and
CHARLES S. HOUSER, Chief Assistant Attorney General of the State of Michigan, and
JOHN B. SWAINSON, JOHN V. SMITHERMAN, and HARRY C. TOWNSEND, Members of the Board of Education,
Appellees.

On Appeal from the Supreme Court of the County of Ingham for the Purpose of Review of Decisions of Boards of Review

REPLY TO APPEAL

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1963

No. 962

WILLIAM C. MARSHALL, BARNEY HOPKINS, AUGUST SCHOLLE, ALEXANDER D. FULLER and CHARLES A. ROGERS,
Appellants,
vs.
JAMES M. HARE, Secretary of State of State of Michigan, and
STANTON S. FAVILLE, Chief Assistant Attorney General of the State of Michigan, and
FRANK D. BEADLE, JOHN W. FITZGERALD, and PAUL C. YOUNGER, Senators of the State of Michigan,
Appellees

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

MOTION TO AFFIRM

Appellees Frank D. Beadle, John W. Fitzgerald and Paul C. Younger, pursuant to Rule 16 of the Revised Rules of the Supreme Court of the United States, move that the final judgment of the District Court be affirmed.

STATEMENT OF QUESTIONS INVOLVED

This case involves Michigan's system of legislative apportionment. Here, as in Colorado, it is a recently adopted state constitution which is attacked. While one house of the bicameral legislature established by the Michigan Constitution of 1963 is predicated as nearly as may be practicable on straight population, the other house is not.

There are two questions involved.

(1) Does the Fourteenth Amendment impose upon the people of each state having a bicameral legislature a national edict requiring the apportionment of members of both houses solely on a population basis (modified only to the extent required by practicalities), thereby denying to many of the people of Michigan the opportunity provided by its 1963 Constitution for adequate representation by legislators known and accessible to them and responsive to their special needs?

If this question is answered in the negative, the second question is:

(2) Did the people of Michigan create, through the legislative apportionment provisions of the Constitution of 1963, a rational and non-invidious basis for the representation of all its diverse and widely and unevenly distributed population?

ARGUMENT

I. THE NATIONAL EDICT

The Michigan Constitution of 1963 provides for a bicameral legislature. Michigan's House of Representatives is clearly predicated and apportioned on population "as nearly as may be practicable". See *infra*, p. 21. The Senate is not so apportioned. In recognition of the size and unique geography of Michigan and of the fact that the people living in the vast areas of the northern half of Michigan are widely scattered and have completely separate and diverse interests, the 1963 Constitution prescribes a formula for the Senate which gives those people reasonable and effective representation not possible under apportionment on population alone.

Except for some "weighting" of votes the people of northern Michigan would in practical effect be disenfranchised. The "weighting" prescribed by the Michigan Senate formula gives to the people in that area[1] reasonably effective representation, but nothing more. Comparison of a straight population apportionment of the Michigan Senate (Appendix I) to a probable apportionment under the Senate formula (Appendix II) reveals that the practical effect of the Senuate formula is to "shift" 4 seats from Michigan's most populous counties to the northern half of Michigan. Of course, the obvious and necessary result of the Senate formula is that some northern senatorial districts will have fewer constituents than some districts in the heavily populated southern section of the state. It is that disparity which is the only real thrust of appellants' challenge.

It is and must be appellants' proposition in attacking the 1963 Michigan Constitution that no matter how unreasonable, how unfair, no matter what the particular cir-

[1] Approximately 730,000 or 9% of Michigan's total population.

cumstances of a particular state may be, the Fourteenth Amendment of the federal Constitution prohibits the creation of any electoral district for any state or local elective officer other than on straight population as near as may be practicable.

In order to demonstrate the manifest unfairness of such a national fiat to the State of Michigan, appellees have included as Appendix I to this motion a map illustrating a straight population apportionment (as near as may be practicable) of the 38 seat Michigan Senate. Study of this map shows that more than one-half of the State of Michigan, despite all of its diverse and separate interests, would be entitled to representation by but 3 out of 38 senators. If this is required by the Fourteenth Amendment, the two Senate districts in northernmost Michigan (one encompassing the western two-thirds of the Upper Peninsula and the other the remaining portion of the Upper Peninsula and 9 Lower Peninsula counties) would each contain over 10,000 square miles. Each of these districts would be larger than each of the 9 smallest states. Seven Michigan Senate districts, including these two, would each be larger than each of the 2 smallest states.[2]

A. Characteristics of Michigan

Some conception of the reason why the people of the State of Michigan did not choose a straight population apportionment of their Senate may be obtained from a brief review of certain of the facts about Michigan considered by the District Court.

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[2] The senatorial districts created pursuant to the Senate formula of the 1963 Michigan Constitution will be sizeable in any event. (Appendix II) The 3 districts in the Upper Peninsula will each be larger than Connecticut or Delaware and 17 of the 38 senators will be elected from districts larger than Rhode Island.

Michigan's 7,824,018 human beings reside upon two peninsulas which lie athwart Lakes Superior, Michigan, Huron, Erie and St. Clair, the largest and most important bodies of fresh water in the world. Michigan is the only state in the Union which is divided into two substantial parts. Its more than 1,600 miles of coast line give it the longest coast line of any state, Florida and California ranking next; it is the largest state (58,216 square miles) east of the Mississippi River, except Georgia (58,876) and Florida (58,560). It is seventh in population among the states.

Michigan covers a surprising range of territory. It is a longer drive from Copper Harbor to the state capitol in Lansing than from Detroit to Knoxville, Tennessee; it is also farther from Monroe in the Lower Peninsula to Ironwood in the Upper Peninsula than from Monroe to Asheville, North Carolina.

Physically, it presents an uneven surface, ranging from the flat lake plains of the southern coastal areas to the high sandy waste lands of the northern half of the Lower Peninsula and ultimately to the Porcupine Mountains in the northwestern corner of the Upper Peninsula. Its climate is as varied as these distances and topograhical features would suggest. For example, the annual growing season ranges from 95 days in Iron and Alger counties to 184 days in Berrien county; and the average annual snowfall ranges from 168.5 inches in Houghton county to 27.0 inches in Lenawee county.

One of the results of the wide disparities in climate and productivity of the land has been that Michigan produces a tremendous variety of agricultural products. Most of the prime agricultural land is located in the southern half of the Lower Peninsula. The production of grains, sugar

beets and cattle is concentrated in the thumb, middle central and south central portions of the state. On the other hand, fruit production is concentrated in a thin border along Lake Michigan.

Extensive lumbering and related wood products industries continue to operate in the Upper Peninsula and upper portion of the Lower Peninsula.

Approximately 40% of the total mineral wealth in Michigan is produced in the 9 western counties of the Upper Peninsula. The mining of iron ore is concentrated in Marquette, Menominee and Gogebic counties while the mining of copper is centered in Houghton, Keweenaw and Ontonagon counties.

Michigan also enjoys a robust twelve month outdoor tourist season which thrives in the northern sections of the state where most of the land is unsuitable for farming.

Heavy manufacturing, principally related to automotive products, steel and chemicals, is concentrated in a U-shaped belt of southern Michigan counties extending southeastward from Bay County to Wayne County, westward across the state to Berrien County and northward to Muskegon County. In four of these counties (Muskegon, Midland, Genesee and Macomb) at least 50% of all employed persons are engaged in manufacturing.

The concentration of heavy industry, farming, tourism, lumbering and mining in different sections of the state is reflected in the differing general economic and social characteristics of the people in these different sections.

The number of persons per square mile varies from 4.4 to 6.1 in the northern Michigan counties of Keweenaw and Oscoda to 4392 in Wayne County. The median school years completed is lowest in Keweenaw at 8.5 and highest

in the southern counties of Oakland, Midland and Ingham at 12.1 and Washtenaw at 12.2.

The highest per capita and per household buying income is centered in the industrial belt of the Lower Peninsula and particularly in its southeastern corner. The per household buying power ranges from $3,485 and $3,771 in Lake and Keweenaw counties to $7,141 in Wayne, $8,951 in Oakland and $8,657 in Washtenaw.

Appellants' primary challenge to the 1963 Michigan Constitution is the assertion that the Fourteenth Amendment requires that each state of the Union be apportioned solely on the basis of equal population, and therefore that the people of Michigan lack power and freedom to choose a system of senatorial apportionment that recognizes their disparate conditions and needs, which have here been briefly reviewed. Judicial imposition of the mechanistic doctrine of "one-man, one-vote" upon the citizens of sparsely settled northern Michigan would unjustifiably relegate their separate and distinct needs to a position of low priority or even elimination on the legislative docket. The District Court refused to do so. Appellants' demand that this Court do so is *the* issue in this appeal.

By their 1963 vote the people of Michigan recognized that representation of the people living in the northern half of their state[3] by only 3 of 38 legislators in one house, when coupled with a comparable lack of seats in the other house, is tantamount to no representation at all.

It is little short of ridiculous to suggest that the people of northern Michigan would be properly represented by senators—no matter how fair-minded—elected by the

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[3] This region was accurately described by Judge Kaess in the majority opinion below as "impoverished".

urban districts of southern Michigan. These senators would be handicapped by lack of knowledge of the local problems, interests and needs of people living over 600 miles away. More important, it must be obvious that in our representative form of government senators are primarily responsible to their constituents, i.e., the people who elected them. Since the people of northern Michigan do in fact have different problems, needs and desires from those of the rest of the state, they ought to be entitled to reasonable and politically effective representation by senators who have personal knowledge of their problems and who are directly responsible to them.

Indeed, appellees suggest that a legislative districting system which grants only 3 of 38 legislators in one house to the people in one-half of Michigan, far from guaranteeing equal protection of the laws to the people of Michigan, would in fact deprive a substantial segment of Michigan's population of such equal protection.

B. The "Federal Analogy"

In deciding what form of government the State of Michigan should have, its people, having the benefit of 175 years of experience with the Congress of the United States which has a population-based lower house and a non-population-based upper house, adopted in 1963 an analogous apportionment system for its legislature.

Some political scientists and lower courts have developed, during the current litigation over state legislative apportionment, a technical argument by which they hope to prove that the "federal analogy" has no application to the apportionment of a state legislature.

The argument relies upon the "great compromise" by which the small states surrendered a part of their sovereignty by accepting a population-based House, in return for which the large states conceded to the smaller states a voice in the Senate totally unrelated to population. Obviously, the adoption in 1963 of a comparable legislative system by the people of Michigan did not involve a comparable sacrifice of sovereignty by its political subdivisions.

However, this distinction totally ignores the fundamental issue!

We submit that the Fourteenth Amendment invalidates *invidious discrimination* only.

> "The traditional test under the Equal Protection Clause has been whether a State has made 'an invidious discrimination.' as it does when it selects 'a particular race or nationality for oppresive treatment.' See *Skinner v. Oklahoma*, 316 U.S. 535, 541. Universal equality is not the test; *there is room for weighting.* As we stated in *Williamson v. Lee Optical Co.*, 348 U.S. 483, 489, 'The prohibition of the Equal Protection Clause goes no further than the invidious discrimination.'" Douglas J., concurring in *Baker v. Carr*, 369 U.S. 186, 244-245. (Emphasis supplied.)

Appellants have only one real argument—any legislative system which does not apportion both houses on a *per capita* basis, as nearly as practicable, is invidiously discriminatory and *malum in se*. If appellants are correct, it must necessarily follow that for 175 years the basic structure of the Congress of the United States has been similarly invidious. Nothing in the historical background of the federal system immunizes it from this criticism. No "great compromise" renders benign a system which is inherently evil.

Appellants assert that the formula for the Michigan Senate is invidiously discriminatory because (i) 57% of the state's population (in the 5 largest counties) will receive 47% of the Senate seats, (ii) 40% of the state's population could theoretically control the Senate, (iii) the probable maximum population disparity between districts will slightly exceed 4 to 1, and (iv) an area could theoretically receive a senator even though it was "substantially or totally uninhabited." If so, the apportionment of the United States Senate is malicious beyond comparison: (i) 57% of the nation's population (in the 11 largest states) receive 22% of the Senate seats, (ii) 17.44% of the nation's population can control the Senate, (iii) the maximum population disparity between Senate districts exceeds 74 to 1, and (iv) each of the 50 states—including Alaska, much of which is uninhabited—is guaranteed 2 senators.

Appellants further assert that the Michigan House formula is invidiously discriminatory against *urban* voters (despite the close correlation between the population in each county and that county's total number of seats as set forth in Table 1, *infra*, p. 21) because there will be a population disparity of 2 to 1 between two *rural* districts in Michigan. Even if every member of the United States House of Representatives were elected from a district exactly equal in population to every other district within a particular state pursuant to the direction in *Wesberry v. Sanders*, 376 U.S. 1, the population disparity between Alaska and Maine would still exceed 2 to 1.

Can this Court in good conscience tell the people of Michigan who patterned the 1963 apportionment of its legislature upon the federal system: "No, you cannot avail yourselves of the 175 years of experience the United States has had with this apportionment of Congress—to do so would be invidious."?

It must be obvious to even the most biased of observers that the "great compromise" was much more than an expedient accommodation between sovereign states. It was an accommodation of two conflicting political theories. This Court recognized in *MacDougall v. Green*, 335 U.S. 281, at page 283, that the United States Constitution protects the interests of the political minority by giving it unequal representation in the Senate. The Senate, therefore, is the embodiment of one major political theory. As stated by Justice Edwards[4] of the Michigan Supreme Court in *Scholle v. Secretary of State*, 360 Mich. 1, 91-92:

> "From the very founding of this republic, this nation has contained 2 diverse political forces—one of which has espoused pure democracy, and the other of which has sought to check it. There actually were 2 great compromises in the writing and the adoption of the Constitution itself without which indeed the United States of America might never have come into being.
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> * * * * *
>
> "The other great compromise was arrived at in drafting of the Constitution. The Federalists succeeded in taking great powers from the States. In return, they had to give equal representation in the senate to all States regardless of size or population. Federalist Papers, No. 62. Substantial inequality of voting strength as to the United States senate was thus built into the Constitution long before the Fourteenth Amendment."

Thus the governmental structure of the United States has, from its inception, reflected the political theory which sought to provide political protection and a legislative voice for the minority. It might also be noted that the members of this Court and the President of the United States are

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[4] Now a Judge of the Sixth Circuit Court of Appeals.

chosen on a constitutional basis which ignores the standard of straight population. The President of the United States is chosen by an Electoral College which permits a minority (43.21%) of the people to choose the President. The President in turn appoints the Justices of this Court, traditionally taking into account different sections of the country regardless of population. Moreover, these appointments are subject to the advice and consent of a majority of the Senate, which can be controlled by as little as 17.44% of the people.[5]

C. Historical Context of Fourteenth Amendment

Appellants' institution of this action is evidence enough that the "great compromise" did not settle the question of legislative protection of minorities. Today, those who oppose the checks inherent in our constitutional system are attempting to use the Fourteenth Amendment to do that which was specifically rejected at the time of the creation of this nation.

This effort finds no support in the history of the adoption of the Fourteenth Amendment. Justice Edwards recognized this fact in *Schoile, supra*, at pages 92-93:

> "The interpretation of the Fourteenth Amendment equal protection clause contended for herein would forbid any State from having a constitutional scheme for legislative representation in either house on any basis other than one which results in substantial voting equality.

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[5] Michigan, on the other hand, elects its executive and its judicial branch in an at-large election.

> "No matter what the future may bring in relation to this contention, it certainly was not the interpretation of the Fourteenth Amendment placed thereon by the States which ratified it. Nor is it that adopted by the United States congress subsequently in admitting States to the Union. Nor is it the interpretation current among the majority of the 50 States of the Union at present."

This Court has recently recognized the importance of the historical context surrounding the adoption of a constitutional provision. In *Wesberry v. Sanders, supra*, this Court construed Article 1, Section 2, of the United States Constitution to require that all congressional districts within a state be created as nearly as is practicable on a "one-person, one-vote" standard. The basis for this landmark case is, almost exclusively, the "historical context" within which Article 1, Section 2, was adopted.

This Court is now asked to hold that the Fourteenth Amendment imposes a similar requirement in the apportionment of both houses of every state legislature. The historical context within which the Fourteenth Amendment was adopted absolutely rejects such construction. See *Scholle v. Secretary of State, supra*, at page 96:

> "* * * 20 of the 37 States constituting the Union at the time of the adoption of the Fourteenth Amendment had in their own constitutions provisions which prevented at least 1 legislative house from being based upon the principle of equality of popular representation."

The Constitutions of 8 of the 13 states subsequently admitted to the Union also contained provisions for the election of at least one legislative house on a basis other than straight population. *Scholle*, 360 Mich. 1, 93-98. Consequently, the Fourteenth Amendment, if construed in its

historical context including its subsequent interpretation by Congress and by the people of the areas choosing statehood, cannot be said to require every state to apportion both houses of its legislature solely on a population basis.

With wisdom and a sense of political realism, the framers of the United States Constitution perceived the necessity of creating a system for apportioning the Congress which satisfied two conflicting, yet valid, political theories. Nothing in appellants' arguments should convince this Court that the Fourteenth Amendment prevents the people of Michigan from utilizing a system for apportioning Michigan's legislature which likewise reflects the philosophy of checks and balances.

D. The Governmental Structure of Michigan

In contrast to the situation present in *Baker v. Carr*, 369 U.S. 186, this is not a case in which the people were rebuffed by an entrenched legislature: the *people* of Michigan chose its legislative apportionment system. Nor is this a situation in which the people of Michigan have no effective way to change their governmental structure. Article XII, Section 2, of the Michigan Constitution of 1963 provides that 10% of the electorate may at any time initiate a proposal to amend or revise the Constitution.[6] Furthermore, Article XII, Section 3, *requires* submission to the people of the question of general revision of the

[6] Between 1908 and 1961, 35 constitutional amendments were placed on the ballot by this method and 10 were adopted. In addition Article XII, Section 1, authorizes the legislature to propose amendments which must be submitted to the people. From 1908 through 1961, 59 of 91 proposals placed on the ballot by this second method were adopted.

Constitution in the 1978 general election and every 16 years thereafter.

We submit that the District Court was clearly correct in concluding that the Michigan governmental system created by its 1963 Constitution is fair to *all* the people in Michigan. Both the executive and judicial branches of the government are selected in at-large elections and one-half of the legislature, i.e., the House of Representatives, is selected by the people in direct relationship to their numbers. See Table 1, *infra*, p. 21.

Moreover, the urban people, i.e., people living in Michigan's ten "urbanized areas" as defined in the Department of Commerce, Bureau of Census, 1960 Final Report PC (1)-24A,[7] will control 22 or 23 of the 38 Senate seats, which is almost the exact number of seats to which they are entitled on the basis of their population. (Appendix IV, p. 11b). At the same time the 9% of the state's population living in the northern half of Michigan, who have needs and interests unlike those of the people in the rest of Michigan, are given a "weighted" voice (18% of the seats) in the Senate to enable them to be heard effectively in the legislative halls.

The necessary effect of appellants' construction of the Fourteenth Amendment would require this Court to destroy the structure of the Michigan legislature and to impose a uniform legislative system on *all* states whose legislatures are bicameral.[8] They assert that the language "No state

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[7] By Bureau of Census definition, an urbanized area contains "at least one city of 50,000 inhabitants or more in 1960, as well as the surrounding closely settled places and unincorporated areas" that meet certain criteria.

[8] In some states the system advocated by appellants may be the only rational, non-invidious system of government.

shall * * * deny to any person within its jurisdiction the equal protection of the laws" means that the people of Michigan are denied the choice their forefathers made in creating the form of our federal Congress. The fiat which appellants seek to impose upon the people of Michigan by judicial decree (after the people have chosen otherwise in a statewide election) would take from the people the right to choose their own form of government. This right of choice is the *sine qua non* of government by consent of the people.

E. Significance of Voter Approval

We do not advocate that the people of any state have the right to violate the federal Constitution. We agree with Mr. Justice Black that "the people of a state can no more violate the Constitution by referendum than by law."[9] We do assert, however, that this Court should not abrogate the will of the people unless their action was *per se* illegal. At the very least it is potent evidence against appellants' claim of invidious discrimination that Michigan's legislative apportionment was adopted by a majority of the people of Michigan in a vote at large. Indeed, the people's choice should be considered *prima facie* rational and reasonable. Certainly this is so if the issue is narrowed to one of degree, i.e., whether or not the extent of deviation from straight population is reasonable or invidious under the circumstances.

We quote Judge Clifford O'Sullivan (Circuit Judge, 6th Circuit) in his concurring opinion below:

> "Michigan's new Constitution was not the product of hurried or partisan maneuvering, or of gradual and hidden erosion of the people's rights. The people of Michigan, by popular vote, decided to have

[9] 32 L.W. 3347.

a constitutional convention. Pursuant to that mandate, a convention was assembled. Out of that assembly's free and unfettered interchange and collision of ideas—between political scientists, practical politicians, lawyers and students of constitutional government, labor leaders, industrialists, and just plain citizens of all races and creeds—came for consideration by the entire people of Michigan a proposed constitution. The question of whether this proposed people's legislation was wise and proper was vigorously contested at the convention and during the months that followed its submission for adoption or rejection by the people. All of its provisions were exposed to the searching light of today's media of public information. Thus informed, the people of Michigan made a deliberate choice and, though the closeness of the vote portrays the vigor of the people's search for what was right, the legislation here under attack was adopted by a majority vote of the people of this State. In making this deliberate choice, every man's vote was equal to that of any other. Unless the attacked Article of the Michigan Constitution is infected with illegality, a decree, granting the relief sought by plaintiffs, would dilute and debase the vote of every elector who cast his vote with the majority. Finding no such illegality, we decline to do so.

"A canvass of the vote on the Constitution discloses that its adoption did not come about through the predominant power of any part of the State over another. It does not disclose a victory of one race or creed over another; it does not disclose a victory of Republicans over Democrats;[3] it was not a victory of the rural over the urban, or of capital over labor; neither can we discern any influences or pressures except what are traditional in American political contesting. It is true that issues other than Article IV, Sections 2-6, played a part in the

vote pattern, but the Article before us was prominent in the public discussions which preceded the voting.

"No clear picture emerges from a study of the vote except that the majority of the people of Michigan made a considered and deliberate choice. For our conclusion, we assume, as plaintiffs insist, that we, the federal judges, may have the right, under some circumstances, to tell the people of Michigan that they cannot have what they chose for themselves. We are not persuaded, however, that the 1963 choice of a Constitution by the people of Michigan was a deliberate or unwitting creation of an invidiously discriminatory plan of apportionment.

"The complaint should be dismissed."

"[3] Wayne County, Michigan, recognized now as a Democratic stronghold, usually voting on a basis of about 65% Democratic and 35% Republican, voted in the constitutional election 245,410 for and 294,629 against the Constitution. The five most populous counties, whom the plaintiffs assert are the victims of discrimination, in total voted 441,530 for and 457,294 against the Constitution. Rural counties, which are claimed to be unfairly favored by the discrimination which plaintiffs assert is in the Constitution, in many instances voted strongly against the Constitution, and it would have gone down except for the heavy favorable vote in the urban populous counties. It might be thought that this discussion of political parties should not be mentioned. The judiciary, however, should not pretend such naivete as not knowing that politics is here involved."

The Fourteenth Amendment, like the United States Senate, is a constitutional device for protecting minorities from oppressive majorities. Yet appellants urge that the Fourteenth Amendment be extended to protect Michigan's majority from itself. Specifically, appellants, in the name of majority rule, would deny the majority the right to delegate a small portion of the power it possesses to the minority in northern Michigan. That delegation, we sug-

gest, is analogous to the protection given to minorities by the United States Senate and, indeed, by the Fourteenth Amendment itself.

F. Summary

By this appeal, appellants in reality do no more than challenge the holdings of the court below: (i) that the Fourteenth Amendment does not require that every state apportion its legislature in precisely the same manner, (ii) that the Amendment does not blindly require equal population apportionment of both houses of a bicameral state legislature but leaves room for adjustment of apportionment systems to particular factual circumstances of each state, and (iii) that Michigan is a state whose particular factual circumstances justify such adjustment. If the challenge of appellants of this threefold holding is ill-founded, and we submit that it is, there is nothing of substance left in appellants' appeal and the District Court's judgment should be affirmed without more.

II. MICHIGAN'S SYSTEM OF LEGISLATIVE REPRESENTATION

Of course, the District Court also held (and appellants here also challenge the holding) that the specific adjustment chosen by the people of Michigan was constitutionally proper in the light of the specific factual characteristics of Michigan reviewed in the forepart of this motion.

As there noted, the net and only significant effect of the chosen adjustment is a shift of 4 out of 38 Senate seats to the northern half of Michigan. Appellants ignore the reasons for making this 4 seat realignment.

Instead, the attack appellants make is upon certain specifics of the Michigan formulae. Even this assault evanesces upon an examination of the distortions upon which it is based.

A. The House of Representatives

First, appellants assert that the Michigan formulae are unconstitutional because they result in minority control of both houses of the legislature (p. 5, Jurisdictional Statement). In the Michigan House a *minimum* of approximately 47.5% of the people can be represented by a majority comprised of the 56 least populated districts in the 110 member House. However, these include urban, rural, Republican and Democratic districts and therefore in practice, as opposed to theory, a majority of the state's population *must* be represented by a majority of the House on any legislation it passes.

Appellees plainly and unequivocally assert that the Michigan House of Representatives is based on population as nearly as practicable. Table 1, set forth below, was prepared from Map II A-4 set forth in Appendix III.[10] This Table, which lists in descending order by population the 21 most populous counties of Michigan (containing 82.69% of the State's population), proves that the Michigan House formula results in a straight population apportionment.

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[10] The Apportionment Commission which is charged by Article IV, Section 6 (Jurisdictional Statement Appendix, 40a-41a) with the duty of creating districts pursuant to the formulae set forth in Article IV was unable to agree upon a single plan. Therefore, the Commission presented four plans, only three of which purport to comply with Article IV, to the Michigan Supreme Court to determine which plan complies most accurately with Article IV (42a). Table I also reflects all three plans which purport to comply with Article IV, including the plan submitted by 4 of the 8-member Commission and adopted by three of the eight Justices of the Michigan Supreme Court. The remaining Justices have adopted no plan. Four have stated that they are awaiting direction from this Court. The fifth Justice has rejected all plans as violating the Fourteenth Amendment.

TABLE 1

County	% of Total Population	Theoretical Entitlement (% of Total Population x 110 seats)	Actual Seats Allocated	Cumulative Theoretical Entitlement	Cumulative Actual Seats Allocated
Wayne	34.08	37.49	37		
Oakland	8.83	9.71	10	47.20	47
Macomb	5.19	5.71	6	52.91	53
Genesee	4.78	5.26	5	58.17	58
Kent	4.64	5.10	5	63.27	63
Ingham	2.70	2.97	3	66.24	66
Saginaw	2.44	2.68	3	68.92	69
Washtenaw	2.20	2.42	2	71.34	71
Kalamazoo	2.17	2.39	2	73.73	73
Muskegon	1.92	2.11	2	75.84	75
Berrien	1.92	2.11	2	77.95	77
Calhoun	1.77	1.95	2	79.90	79
Jackson	1.69	1.86	2	81.76	81
St. Clair	1.37	1.51	2	83.27	83
Bay	1.37	1.51	2	84.78	85
Monroe	1.29	1.42	1	86.20	86
Ottawa	1.26	1.39	1	87.59	87
Lenawee	.99	1.09	1	88.68	88
Allegan	.74	.81	1	89.49	89
Marquette	.72	.79	1	90.28	90
Van Buren	.62	.68	1	90.96	91
Total	82.69				

B. The Senate

Appellants also assert the theoretical possibility of minority control by 40% of Michigan's people in the Senate because the smallest 20 of its 38 districts contain approximately 40% of Michigan's population. Because these 20

districts likewise include urban, rural, Republican and Democratic districts, this bloc represents no control at all.[11]

The foundation of sand upon which appellants rest their argument is well illustrated by comparing the facts with the concluding assertion in their Jurisdictional Statement:

> "In final analysis, though dressed up in pseudo-scientific, sophisticated garb, the present provisions have in common what all apportionment provisions not based substantially on population customarily do, namely, an attempt by some verbal rationalization to preserve the status quo." (p. 20 of Jurisdictional Statement.)

Their assertion completely ignores the shift in control of the Michigan Senate from rural to urban people that directly results from the adoption of the 1963 Constitution:

Distribution of Seats in the Senate[12]

	Urban	Rural	Total
Under old Constitution	16	18	34
Under new Constitution	22 or 23	16 or 15	38

Moreover, most of the additional strength of the urban people was gained in the five most populous counties:

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[11] It cannot be disputed that the 4 Senate seats realigned by application of the Senate formula from that resulting from a straight population apportionment are "shifted" from Democratic and Republican areas to *other* Democratic and Republican areas. Based upon traditional voting patterns, such shift would result in a probable net political change of 1 seat.

[12] Source data for these tables are derived from Appendix IV. See also finding of the District Court, majority opinion of Kaess, J., Jurisdictional Statement Appendix, p. 6a.

	Old Constitution	1963 Constitution
Wayne	7	10
Oakland	1	3
Macomb	1	2
Genesee	1	2
Kent	2	1
	12	18

(In placing the House on a straight population basis, a comparable shift in allocation of seats in the House to urban counties results from the 1963 Constitution. The Upper Peninsula loses 2 of 7, or 28%, of its seats. The upper portion of the Lower Peninsula loses 5 of 13, or 38%, of its seats. By contrast Oakland County, Michigan's second-most populated county, gains 4 seats to give it 10, an increase of 67%. Macomb County, the third largest county in terms of population, gains 3 seats to give it 6, an increase of 100%.)

C. The Area Factor

Appellants also seize upon the use of area, as such, in the Senate formula as conclusive evidence of invidious discrimination. The conscious objective of the Michigan Senate formula is the creation of Senate districts small enough in size to permit representation of the people resident therein by legislators known and accessible to them and reponsive to their special needs. The creation of such districts in the vast northern regions of Michigan is achieved by the use of the area factor which results in districts small enough to permit effective representation for

its people.[13] The area factor is the impersonal objective way to achieve the goal regarded by the people of Michigan as not only legitimate but desirable.

Area itself is *not* represented in the Michigan Senate.

The employment of a mathematical formula uniformly applicable throughout the state, such as that adopted by the Michigan Constitution, in creating legislative districts has two additional advantages: one, it prevents gerrymandering and, second, it precludes any rational criticism that legislative districts were created on a "crazy-quilt" basis.

The lengths to which appellants must go to find a basis for attacking the Senate formula is demonstrated by Appendix G to their Jurisdictional Statement and their assertion that citizens in a multi-county senatorial district are denied equal treatment with all other voters within their district (p. 11, Jurisdictional Statement). These arguments are based on premises which are plainly *false*, namely that each county in a multi-county district separately elects a *fraction of a senator*. This is utter fantasy because the Senate formula requires the grouping of counties into single member districts. Once the districts are created, each person within that district will cast one vote of equal weight to that of all other voters within his district, regardless of the county in which he resides.

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[13] Other possible approaches would have been to set specific limits on the linear dimensions of districts or to draw specific boundary lines. The area factor in the Senate formula reflects linear dimensions, of course, but avoids distortion which might otherwise result from irregular coastlines. It also reflects future shifts in population thereby avoiding many of the problems created by frozen districts. The approach chosen by Michigan was a detailed mathematical formula applying to all of Michigan as opposed to either a linear definition of districts or a broad grant of discretion to an apportioning body.

Footnotes 5 and 8 on pages 8 and 9 of appellants' Jurisdictional Statement are simply mathematical extensions of the same false premise, i.e., the "fractional senator." They purport to compare the relative weight of votes in the Michigan Senate given the people of the largest and smallest counties (Wayne and Keweenaw) of Michigan. The County of Keweenaw elects no senator and no fraction of a senator. The County of Keweenaw under the Michigan formula becomes a part of a much larger district, the total population of which will contain approximately 100,000 people, and the "index of representation" for which will be approximately 211, not 693 as represented by appellants.

Moreover, the people of the County of Keweenaw simply will not elect 3.36 senators per 100,000 persons. Together with the people in every other county in that 100,000 population district, they will elect one senator. Likewise, the relative representation between each of the ten Senate districts which comprise Wayne County and the district of which Keweenaw County is a part is 2.73 to 1.00, not 8.62 to 1.00 as appellants would infer.

The motive for appellants' mathematical gyrations is obvious. Such distorted figures could obscure the fact that the *only significant result* of the application of the Michigan formulae is to "shift" 4 seats in the 38 seat Senate and thereby divert this Court from the issue in this case—Is that four seat shift, in Michigan, invidiously discriminatory?

CONCLUSION

The rationale of Michigan's system of legislative apportionment—as opposed to *per capita* apportionment for both houses—is that the Michigan formula gives control of both houses to the urban majority and yet preserves reasonably effective representation in the Senate to people residing in

more than one-half of the state, whereas *per capita* apportionment of the Senate in practical effect would disenfranchise such people. This objective is legitimate. It is a policy which, in the words of Mr. Justice Brandeis, "an informed, intelligent, just-minded, civilized man could rationally favor". (*Quaker City Cab Co. v. Pennsylvania*, 277 U.S. 389, 406 (dissent))

It is the Michigan formula which is rational and reasonable and it is *per capita* apportionment of the Senate which is irrational and unreasonably discriminatory if applied to the State of Michigan.

RELIEF

Wherefore, appellees, Frank D. Beadle, John W. Fitzgerald and Paul C. Younger, renew their prayer that the final judgment of the District Court in the above entitled cause be affirmed.

Respectfully submitted,

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Appendix I

SENATORS MAP II B-1

SENATE THEORETICAL "STRAIGHT POPULATION" AS NEARLY AS PRACTICABLE

The attached map shows an apportionment of the Michigan Senate following county lines based on the following:

1. The ratio of representation for the state is 205,895 people (7,824,018)

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   (38)

2. Each county is entitled to one senator for each full ratio of representation (205,895 people) and an additional senator for a major fraction of representation (102,948 or 50 percent of 205,895). The same result would be obtained by organizing areas having as nearly as may be a full ratio and then allocating the additional seats on the basis of population by the method of equal proportions.

3. Each county having less than a full ratio of representation is joined with another county or counties in order to achieve as near as may be possible a full ratio of representation.

Map II B-1

Appendix I

SENATORS MAP II B-1

Senate Theoretical Straight Population As Nearly As Practicable

Dist.	No. of Senators	Average Population Per Senator	Deviation from Average 205,895 Amount	Percent	Average Land Area Per Senator in Sq. Mi.
1	13	205,133	-762	.4	46.6
2	3	230,201	24,306	11.8	292
3	2	202,902	-2,993	1.5	241
4	2	187,157	-18,738	9.1	322
5	2	181,594	-24,281	11.8	431
6	1	211,296	5,401	2.6	559
7	1	213,651	7,756	3.8	1,917
8	1	205,499	-396	.2	1,764
9	1	186,797	-19,098	9.3	1,068
10	1	212,044	6,148	3.0	1,075
11	1	224,810	18,915	9.2	1,847
12	1	210,673	4,778	2.3	1,287
13	1	215,447	9,552	4.6	3,180
14	1	211,657	5,762	2.8	2,150
15	1	190,752	-15,143	14.3	812
16	1	199,570	-6,325	3.1	2,961
17	1	204,843	-1,052	.5	2,000
18	1	211,701	5,806	2.8	2,460
19	1	206,370	475	.2	8,983
20	1	206,864	969	.5	10,835
21	1	211,398	5,503	2.7	10,651

Appendix II

SENATORS MAP II B-2

SENATE PURSUANT TO ARTICLE IV SECTION 2— AS CLOSE AS POSSIBLE TO 13 FACTORS

The 78 counties having less than 13 factors are arranged into districts having as nearly as possible 13 apportionment factors. All districts are contiguous by land without crossing the straits.

The minimum percent of the state's population represented by a majority of the members would be 41.26 (assuming all districts within a county are of equal population).

Map II B-2

Appendix II

SENATORS MAP II B-2

SENATE—AS CLOSE AS POSSIBLE TO 13 FACTORS

Dist.	No. of Senators	No. of Factors	Average Population Per Senator	Deviation from Average Population Per Senator (205,895) Amount	Per Cent	Average Land Area Per Senator in Sq. Mi.
1	10	137.38	266,674	60,779	29.52	60.7
2	3	36.86	230,201	24,306	11.81	292
3	2	21.60	202,902	−2,993	1.45	241
4	2	20.25	187,157	−18,738	9.10	322
5	1	20.07	363,187	157,292	76.39	431
6	1	11.78	211,296	5,401	2.62	559
7	1	14.24	213,651	7,756	3.76	1,917
8	1	14.06	216,093	10,198	4.95	1,723
9	1	11.44	186,797	−19,098	9.28	1,068
10	1	13.21	218,107	12,212	5.93	1,174
11	1	11.55	181,678	−24,217	11.76	1,272
12	1	13.02	210,673	4,778	2.32	1,287
13	1	13.42	181,441	−24,454	11.88	2,358
14	1	13.05	184,353	−21,542	10.46	2,084
15	1	14.05	227,764	21,869	10.62	1,378
16	1	12.93	170,342	−35,553	17.30	2,398
17	1	13.04	188,186	−17,709	8.60	1,942
18	1	13.16	143,860	−62,035	30.13	3,311
19	1	13.08	190,650	−15,245	7.40	1,897
20	1	11.72	115,420	−90,475	43.94	3,315
21	1	12.82	85,136	−120,759	58.65	4,820
22	1	12.60	91,941	−113,954	55.35	4,508
23	1	15.16	94,586	−111,309	54.06	5,887
24	1	14.86	110,626	−95,269	46.27	5,232
25	1	14.71	100,772	−105,123	51.06	5,419

Appendix III

SENATORS MAP II A-4

HOUSE ON POPULATION, PURSUANT TO ARTICLE IV, SECTION 3

(.7% single-county; .91 multi-county; and equal proportions)

Each county containing .7 of one per cent of the state's population and each group of counties containing as nearly as may be a full ratio of representation of 71,127 people (.91%) is made a representative area and allocated one seat. There are 39 representative areas. The remaining 71 seats are allocated on the basis of population by the method of equal proportions. All districts are contiguous by land without crossing the straits.

The minimum per cent of the state's population represented by a majority of the members would be 47.75 (assuming all districts within a county are of equal population).

Map II A-4

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Appendix III

SENATORS MAP II A-4

House on Population Pursuant to Article IV, Section 3
(.7% single-county; .91 multi-county; and
equal proportions)

Rep. Area No.	No. of Seats	Average Population Per Seat	% of Total Population Per Seat	Average Deviation from Ratio of Repres. (71,427) Amount	Per Cent
1	37	72,074	.92	947	1.3
2	10	69,060	.88	-2,067	2.9
3	6	67,634	.87	-3,493	4.9
4	5	74,863	.96	3,736	5.3
20	5	72,637	.93	1,510	2.1
23	3	70,432	.90	-695	1.0
8	3	63,584	.81	-7,543	10.6
29	2	86,220	1.10	15,093	21.2
26	2	84,856	1.09	13,729	19.3
18	2	74,971	.96	3,844	5.4
34	2	74,932	.96	3,805	5.3
27	2	69,429	.89	-1,698	2.4
28	2	65,997	.85	-5,130	7.2
6	2	53,600	.69	-17,527	24.6
9	2	53,521	.69	-17,606	24.8
		57,729	.74	-13,398	18.8
25	2	48,395	.62	-22,732	32.0
30	1	101,120	1.29	29,993	42.2
19	1	98,719	1.26	27,592	38.8
22	1	91,679	1.17	20,552	28.9
31	1	77,789	.99	6,662	9.4
32	1	69,645	.89	-1,482	2.1
33	1	79,264	1.01	8,137	11.4
5	1	74,240	.95	3,113	4.4
7	1	77,311	.98	6,184	8.7
24	1	81,422	1.05	10,295	14.5
21	1	81,101	1.04	9,974	14.0
16	1	70,441	.90	-686	1.0
17	1	72,360	.92	1,233	1.7
10	1	62,219	.80	-8,908	12.5
15	1	67,974	.87	-3,153	4.4
14	1	69,687	.89	-1,440	2.0
13	1	68,866	.89	-2,261	3.2
11	1	70,953	.90	-174	0.2
12	1	67,371	.86	-3,756	5.3
[illegible]	1	[illegible]	[illegible]	[illegible]	[illegible]

(Equal proportions)

Rep. Area No.	No. of Seats	Average Population Per Seat	% of Total Population Per Seat	Average Deviation from Ratio of Repres. (71,127)	
				Amount	Per Cent
1	37	72,074	.92	947	1.3
2	10	69,060	.88	-2,067	2.9
3	6	67,634	.87	-3,493	4.9
4	5	74,863	.96	3,736	5.3
20	5	72,637	.93	1,510	2.1
23	3	70,432	.90	-695	1.0
8	3	63,584	.81	-7,543	10.6
29	2	86,220	1.10	15,093	21.2
26	2	84,856	1.09	13,729	19.3
18	2	74,971	.96	3,844	5.4
34	2	74,932	.96	3,805	5.3
27	2	69,429	.89	-1,698	2.4
28	2	65,997	.85	-5,130	7.2
6	2	53,600	.69	-17,527	24.6
9	2	53,521	.69	-17,606	24.8
		57,729	.74	-13,398	18.8
25	2	48,395	.62	-22,732	32.0
30	1	101,120	1.29	29,993	42.2
19	1	98,719	1.26	27,592	38.8
22	1	91,679	1.17	20,552	28.9
31	1	77,789	.99	6,662	9.4
32	1	69,645	.89	-1,482	2.1
33	1	79,264	1.01	8,137	11.4
5	1	74,240	.95	3,113	4.4
7	1	77,311	.98	6,184	8.7
24	1	81,422	1.05	10,295	14.5
21	1	81,101	1.04	9,974	14.0
16	1	70,441	.90	-686	1.0
17	1	72,360	.92	1,233	1.7
10	1	62,219	.80	-8,908	12.5
15	1	67,974	.87	-3.153	4.4
14	1	69,687	.89	-1,440	2.0
13	1	68,866	.89	-2,261	3.2
11	1	70,953	.90	-174	0.2
12	1	67,371	.86	-3,756	5.3
35	1	60,585	.78	-10,542	14.8
36	1	67,968	.87	-3,159	4.4
37	1	56,154	.72	-14,973	21.1
38	1	65,471	.84	-5,656	8.0
39	1	55,806	.72	-15,321	21.5

APPENDIX IV

CONTROL BY URBAN PEOPLE OF SENATE APPORTIONED PURSUANT TO (i) ARTICLE IV, SECTION 2 AND (ii) "STRAIGHT POPULATION AS NEAR AS PRACTICABLE"

Using "Urbanized Area" People of Michigan 1960 U. S. Census of Population—Michigan PC(1)-24A pp. 26-27

Urbanized Area	Map	District Population	Urbanized Population	Urbanized Control	Seats Controlled Pursuant to Article IV, Section 2 Map II B-2	Seats Controlled Pursuant to "Straight Population as near as practicable" Map II B-1
I. Ann Arbor	1) II B-1 and II B-2	210,673	115,282	yes	1	1
II. Bay City	1) II B-2	184,353	72,763	no		
	2) II B-1	211,657	72,763	no		
III. Detroit						
Wayne County	II B-1 and II B-2	2,666,297*	2,599,295	yes	10[a]	13[e]
Oakland County	II B-1 and II B-2	690,259*	590,621	yes	3[b]	2[b]
Macomb County	II B-1 and II B-2	405,804*	346,456	yes	2[c]	2[c]
IV. Flint	II B-1 and II B-2	374,313*	277,786	yes	1[d]	1[d]

[a] Since the population per Senator in Wayne County is 266,629, the 67,002 rural people will not control any of the 10 seats.

[b] Since the population per Senator in Oakland County is 230,086, the 99,638 rural people will not control any of the 3 seats.

[c] Since the population per Senator in Macomb County is 202,901, the 59,345 rural people will not control either of the 2 seats.

[d] Since the population per Senator in Genesee County is 187,157, the 96,527 rural people can control one of two seats if *all* the rural people are placed in one district.

[e] Since the population per Senator in Wayne County under "straight population as near as practicable" would be 205,099, the 67,002 rural people would not control any one of the 13 seats.

*In all multi-district counties under Article IV, Section 2, the total population of the county is shown.

Appendix IV

Urbanized Area	Map	District Population	Urbanized Population	Urbanized Control	Seats Controlled Pursuant to Article IV, Section 2 Map II B-2	Seats Controlled Pursuant to "Straight Population as near as practicable" Map II B-1
V. Grand Rapids	II B-1 and II B-2	363,187	290,692	yes	1	2[f]
VI. Jackson	1) II B-1	224,810	71,412	no		
	2) II B-2	181,678	71,412	no		
VII. Kalamazoo	1) II B-1	212,044	115,659	yes	1	1
	2) II B-2	218,107	115,659	yes		
VIII. Lansing	II B-1 and II B-2	211,296	164,238	yes	1	1
IX. Muskegon	1) II B-1	211,701	95,350	no	1	
	2) II B-2	190,650	95,350	yes		
X. Saginaw	1) II B-1	190,752	129,215	yes	1	1
	2) II B-2	227,764	129,215	yes		
				Total	22 (perhaps 23)	25 (perhaps 26)

Urban People % of Population	Theoretical Seats (% of Population x 38 Seats)	Article IV, Section 2			"Straight Population"		
62.6	23.78	Total Senate	38	38	Total Senate	38	38
		Urban	22	23	Urban	25	26
		Rural	16	15	Rural	13	12

[f] Since the population per Senator in Kent County under "straight population as near as practicable" would be 181,591, the 68,957 rural people would not control either of the 2 seats.

Appendix V

EXCERPT FROM CONSTITUTION OF 1963

ARTICLE XII

Amendment by legislative proposal and vote of electors. Section 1. Amendments to this constitution may be proposed in the senate or house of representatives. Proposed amendments agreed to by two-thirds of the members elected to and serving in each house on a vote with the names and vote of those voting entered in the respective journals shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election as the legislature shall direct. If a majority of electors voting on a proposed amendment approve the same, it shall become part of the constitution and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved.

Amendment by petition and vote of electors. Sec. 2. Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law. The person authorized by law to receive such petition shall upon its receipt determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Submission of proposal; publication. Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next general election. Such proposed amendment, existing provi-

sions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.

Ballot, statement of purpose. The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.

Approval of proposal, effective date; conflicting amendments. If the proposed amendment is approved by a majority of the electors voting on the question, it shall become part of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. If two or more amendments approved by the electors at the same election conflict, that amendment receiving the highest affirmative vote shall prevail.

General revision of constitution; submission of question, convention delegates and meeting. Sec. 3. At the general election to be held in the year 1978, and in each 16th year thereafter and at such time as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than six months after the proposal was certified as approved, the electors of each representative district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate at a partisan election. The delegates so elected shall convene at the seat of government on the first Tuesday in October next succeeding such election or at an earlier date if provided by law.

Appendix V

Convention officers, rules, membership, personnel, publications. The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. To fill a vacancy in the office of any delegate, the governor shall appoint a qualified resident of the same district who shall be a member of the same party as the delegate vacating the office. The convention shall have power to appoint such officers, employees and assistants as it deems necessary and to fix their compensation; to provide for the printing and distribution of its documents, journals and proceedings; to explain and disseminate information about the proposed constitution and to complete the business of the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law.

Submission of proposed constitution or amendment. No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, with the names and vote of those voting entered in the journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.